
**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : Morgan Ray Benson et al.  
Serial No. : 09/940,164  
Filed : August 27, 2001  
Atty. No : DP-306072  
Title : BATTERY CONSTRUCTED WITH EXTRACTED BICELLS STACKED  
ON SHUTTLED PALLET  
Art Unit : 1746  
Examiner : Monique M. Wills

**CERTIFICATE OF FACSIMILE**

I hereby certify that the attached correspondence is being transmitted by facsimile to the United States Patent & Trademark Office to facsimile telephone number (571) 273-2885 on July 7, 2006.

  
Anne L. Kubit

**RESPONSE TO DECISION ON PETITION**

Commissioner of Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450


Dear Sir:

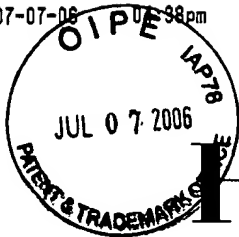
In response to the Decision on Petition dated June 5, 2006 (copy provided herewith), the following completed Part B – Fee (s) Transmittal form PTOL-85 is being submitted to complete all noted filing requirements. As the Decision on Petition stated the payment of the Issue Fee has been received and no further fees should therefore be required for the submission of the completed PTOL-85 Form. However should the Commissioner deem that a fee is required, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account 08-2789.

Respectfully submitted

**HOWARD & HOWARD ATTORNEYS, P.C.**

July 7, 2006  
Date

  
Michael G. Shariff, Registration No. 58,223  
The Pinehurst Office Center, Suite #101  
39400 Woodward Avenue  
Bloomfield Hills, Michigan 48304  
(248) 723-0400



# Howard & Howard

law for business

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## FACSIMILE TRANSMITTAL SHEET

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TO:	United States Patent and Trademark Office	FROM:	Anne L. Kubit For Michael G. Shariff
COMPANY:		DATE:	July 7, 2006
FAX NUMBER:	(571) 273-2885	TOTAL NO. OF PAGES INCLUDING COVER:	5
PHONE NUMBER:		SENDER'S TELEPHONE NUMBER:	(248) 723-0437
SERIAL NO.	09/940,164	SENDER'S FAX NUMBER:	(248) 645-1568
RE:	Response to Decision on Petition		

☒ FOR REVIEW & ACTION

NOTES/COMMENTS:

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HOWARD & HOWARD ATTORNEYS, P.C.  
THE PINEHURST OFFICE CENTER, SUITE 101  
39400 WOODWARD AVENUE  
BLOOMFIELD HILLS, MICHIGAN 48304-5151

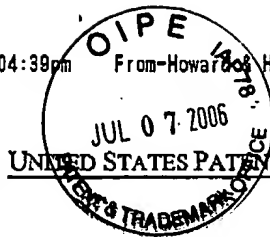
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From-Howard &amp; Howard

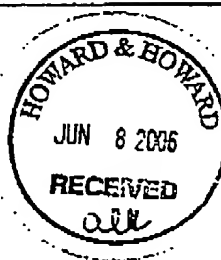
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UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 05 2006

OFFICE OF PETITIONS

In re Application of	:
Morgan Rey Benson et al	: DECISION ON PETITION
Application No. 09/940,164	: UNDER 37 CFR 1.137(b)
Filed: August 27, 2001	:
Attorney Docket No. DP-306072	:

This is a decision on the petition under 37 CFR 1.137(b), filed April 25, 2006, to revive the above-identified application.

The petition is granted.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 22, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed April 22, 2005. A Notice of Abandonment was mailed on September 21, 2005.

The petition satisfies the requirements for a grantable petition in that the reply in the form of payment of the \$1,400 issue fee and \$300 publication fee, the petition fee of \$1,500, and the required statement of unintentional delay have been submitted. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Application No. 09/940,164

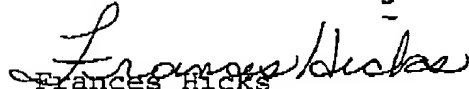
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The revocation and power of attorney received April 18, 2006 is not acceptable since it fails to comply with the provisions of 37 CFR 3.73(b). Although the box is checked to indicate that a statement under 37 CFR 3.73(b) is enclosed, no such certification was found. Accordingly, in view of the nonacceptance of the revocation and power of attorney filed on April 18, 2006, a courtesy copy of this decision is being mailed to the below-listed address. However, all future correspondence will continue to be directed to the above-noted address of record until such time as an acceptable power of attorney has been filed.

There is no indication that petitioner has submitted Part B - Fee(s) Transmittal form PTOL-85. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, and if this can be done without disrupting the printing process, the attached Fee(s) Transmittal form should be completed and returned to Mail Stop Issue Fee, Commissioner for Patents, P O Box 1450, Alexandria, VA 22313-1450, or Fax to (703) 746-4000, within **ONE MONTH** from the mail date of this decision.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Publishing Division.<sup>2</sup>

  
Frances Hicks  
Petitions Examiner  
Office of Petitions

ATTACHMENT TO PETITIONER: Part B - Fee(s) Transmittal Form

cc:

Howard & Howard Attorneys PC  
The Pinehurst Office Center, Suite #101  
39400 Woodward Avenue  
Bloomfield Hills, MI 48304-5151